

Exhibit USAbt-A

Newark, DE

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL INDUSTRY) MDL No. 1456
AVERAGE WHOLESALE PRICE) Civil Action No.
LITIGATION) 01-12257-PBS
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THIS DOCUMENT RELATES TO:) Hon. Patti B.
United States of America ex rel.) Saris
Ven-A-Care of the Florida Keys,)
Inc. v. Dey, Inc., et al., Civil)
Action No. 05-11084-PBS; and)
United States of America ex rel.)
Ven-A-Care of the Florida Keys,)
Inc. v. Boehringer Ingelheim)
Corp., et al., Civil Action No.)
07-10248-PBS)
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Videotaped deposition of
THE DELAWARE DIVISION OF MEDICAID AND MEDICAL
ASSISTANCE by CYNTHIA DENEMARK
December 9, 2008 - Newark, Delaware

Henderson Legal Services, Inc.

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1 THE WITNESS: I'm not sure I would
2 agree with how you phrased what the approach
3 would be for consideration of a provider. I
4 would look at the total fee that the provider is
5 compensated.

6 BY MR. CYR:

7 Q. And what would the total fee include?

8 A. The total fee would include the
9 ingredient cost and the dispensing fee.

10 Q. So if a dispensing fee was inadequate
11 to cover a provider's cost of dispensing, those
12 costs could be covered by the ingredient portion
13 of the reimbursement payment; is that correct?

14 MS. HEALY SMITH: Objection.

15 THE WITNESS: Yes.

16 BY MR. CYR:

17 Q. Was there knowledge among state
18 Medicaid officials at this time that dispensing
19 fees paid by state Medicaid programs were not
20 adequate to cover dispensing costs for drugs?

21 MS. HEALY SMITH: Objection.

22 THE WITNESS: And at this time you're

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1 referring to the time that the 1994 study was
2 done?

3 BY MR. CYR:

4 Q. That is correct.

5 A. My recollection of 1994 was that
6 Medicaid programs were answering to legislators
7 as to why our dispensing fees were higher than
8 other commercial payors.

9 Q. So -- but that wasn't really my
10 question.

11 The question was whether dispensing
12 fees were adequate to cover dispensing costs or
13 whether there was knowledge among Medicaid
14 providers whether dispensing fees were adequate,
15 sufficient to cover dispensing costs?

16 MS. HEALY: Objection.

17 THE WITNESS: My recollection is that
18 Medicaid officials realized that current
19 dispensing fees of the time were not sufficient
20 to cover the dispensing function, the cost
21 associated with the dispensing function.

22 BY MR. CYR: